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**FEDERAL ELECTION COMMISSION**  
**999 E Street, N.W.**  
**Washington, D.C. 20463**

2003 AUG 12 P 4: 21

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR: 5011  
DATE COMPLAINT FILED: May 12, 2000  
DATE OF NOTIFICATION: May 19, 2000  
DATE ACTIVATED: June 5, 2001

EXPIRATION OF STATUTE OF  
LIMITATIONS: April 15, 2005

COMPLAINANT: Rickey Jamerson

RESPONDENTS: Charlie A. Dooley  
Dooley for Congress Committee and  
Everet Ballard, as Treasurer  
Normandy Township Regular Democratic Club and  
Everet Ballard, as Treasurer  
Health Care Leadership Committee and  
John J. Sharamitaro, as Treasurer  
Citizens for Good Government, and  
Francis Brady, as Treasurer  
Committee to Elect Jeff Wagener, and  
Mark Monia, as Treasurer  
Committee to Elect Rita Days and  
Frank S. Days, as Treasurer

RELEVANT STATUTES: 2 U.S.C. § 441b  
11 C.F.R. § 102.5(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

**I. INTRODUCTION**

The Complainant alleges that Charlie Dooley ("Candidate"), an unsuccessful candidate for U.S. Representative in Missouri's 1<sup>st</sup> Congressional District during 2000 election, his principal campaign committee, Dooley for Congress and Everett Ballard, as Treasurer, violated the Federal Election Campaign Act by accepting contributions from nonfederal political committees and other

1 organizations that may have accepted funds from national banks, corporations, or labor  
2 organizations.<sup>1</sup>

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Law**

5 Under the Federal Election Campaign Act of 1971, as amended ("the Act"), contributions to  
6 candidates and political committees are subject to certain limitations and prohibitions. Among other  
7 things, candidates and political committees are prohibited from accepting corporate or union  
8 contributions. 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(d).

9 An organization that is not a political committee under the Act<sup>2</sup> and that makes contributions  
10 to federal candidates or committees must follow one of two alternative procedures. 11 C.F.R.  
11 §§ 102.5(b)(1)(i) and (ii). The organization may establish a separate account into which funds  
12 subject to the prohibitions and limitations of the Act shall be deposited and from which  
13 contributions, expenditures and exempted payments shall be made. *Ibid.* Alternatively, the  
14 organization may demonstrate through a reasonable accounting method that whenever such  
15 organization makes a contribution, expenditure or exempted payment, that organization has received  
16 sufficient funds subject to the limitations and prohibitions of the Act to make such contribution,  
17 expenditure or payment. *Ibid.*

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<sup>1</sup> The Complainant has filed two previous complaints against the Dooley campaign during this election. MURs 4985 and 5001. In responding to similar allegations in MUR 4985 the Dooley campaign stated, "the contributions in each case were allowable under federal law." The Commission exercised its prosecutorial discretion to take no action and close the file in MUR 4985 due to the matter's low Enforcement Priority System rating. In MUR 5001, the Commission found reason to believe that the Dooley for Congress Committee and Everett Ballard, as Treasurer, violated § 441d(a) of the Act, but took no further action and closed the file.

<sup>2</sup> The Act defines a political committee as any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A); *see also*, 11 C.F.R. § 100.5.

1 The treasurer of a political committee is responsible for examining all contributions received  
2 by the political committee for evidence of illegality. 11 C.F.R. § 103.3(b). Contributions that  
3 present genuine questions as to whether they were made by legal sources may be deposited into a  
4 campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(1). If any such  
5 contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of  
6 the contribution. 2 U.S.C. § 432(i); 11 C.F.R. § 103.3(b)(1); 11 C.F.R. § 104.7(a).

7 Under Missouri law, candidates for state office and state political committees may lawfully  
8 accept contributions from corporations and labor unions. Mo. Ann. Stats. § 130.029. Missouri law  
9 limits contributions to candidates for state office. The limit amount varies by office, with the  
10 highest limit being \$1,075.00 during the time period relevant to this case. Mo. Ann. Stats.  
11 § 132.032. In *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 120 S.Ct. 897 (2000), the  
12 United States Supreme Court upheld the contribution limits in Section 132.032. However, these  
13 Missouri candidate contribution limits were not in effect during an extended period immediately  
14 preceding the events in question in this case because of an injunction that was lifted only after the  
15 Supreme Court's decision. See *Shrink Missouri Government PAC v. Adams*, 204 F.3d 838, 843 (8<sup>th</sup>  
16 Cir. 2000). (The injunction was lifted on February 29, 2000; the five contributions at issue here all  
17 were reported as received on March 30 or 31, 2000).

18 **B. Facts**

19 The complaint focuses on Dooley for Congress ("Dooley Committee") and five entities that  
20 contributed to it: (1) the Normandy Township Regular Democratic Club, (2) the Health Care  
21 Leadership Committee, (3) Citizens for Good Government, (4) the Committee to Elect Jeff  
22 Wagener,<sup>3</sup> and (5) the Committee to Elect Rita Days. Complainant alleges that each of these five

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<sup>3</sup> The complaint misspells "Wagener" as "Wagner."

contributors may have received funds from national banks, corporations, or labor organizations, and that such funds tainted the subsequent contribution each made to the Dooley Committee.

The Dooley Committee's Amended April 2000 Quarterly Report discloses the following relevant contributions:

<u>Contributor:</u>	<u>Amount Contributed:</u>	<u>Date of Receipt</u>
Normandy Township Regular Democratic Club	\$500.00	March 31, 2000
Health Care Leadership Committee	\$250.00	March 30, 2000
Citizens for Good Government	\$900.00	March 31, 2000
Committee to Elect Jeff Wagener	\$1000.00	March 31, 2000
Committee to Elect Rita Days	\$500.00	March 31, 2000

The candidate and the Dooley Committee have not responded to the complaint.

Respondent Normandy Township Regular Democratic Club ("Normandy") is a Missouri nonprofit corporation, according to records available at the Missouri Secretary of State's website. Everet Ballard is the treasurer of Normandy. Normandy is not registered with the Commission as a federal political committee, and is not presently registered with the Missouri Ethics Commission as state political committee. The five hundred dollar (\$500) contribution from Normandy was reported by the Dooley Committee as a party transfer on line 11B of Schedule A of its Amended April 2000 Quarterly Report. In response to the complaint, Normandy writes, "Nearly all of the funds collected by the club each year come from individuals therefore; [sic] the contribution made by the club to the Dooley for Congress [sic] is legal and permissible under the law." Letter of Everet Ballard, May 23, 2000.

The Health Care Leadership Committee (HCLC) is a federal political committee. John Sharamitaro is HCLC's treasurer. HCLC's response to the complaint states that its federal account

1 has never accepted contributions from national banks, corporations, or labor unions. It goes on to  
2 state, "All contributions received from the inception of the organization have been from  
3 individuals." HCLC Response, Letter of John J. Sharamitaro, June 1, 2000. While the Dooley  
4 Committee's April 2000 Quarterly Report does not specify that the contribution-in-question from  
5 HCLC is from the latter's federal account, HCLC's response indicates that the contribution to the  
6 Dooley Committee was from HCLC's federal account. HCLC's April 2000 Quarterly Report  
7 discloses the \$250 contribution to the Dooley Committee.

8 Citizens for Good Government ("CGG Committee"), Francis Brady, Treasurer, is listed at  
9 the Missouri Ethics Commission website as a terminated state political committee.<sup>4</sup> The CGG  
10 Committee was notified of the complaint, but has not responded.

11 The Committee to Elect Jeff Wagener ("Wagener Committee"), Mark Monia, Treasurer, is a  
12 state political committee in Missouri. Mr. Wagener has been a member of the St. Louis County  
13 Council since 1996. In response to the complaint, he asserts that "on the date of the \$1,000.00  
14 contribution ... to the Dooley for Congress Committee, the Committee to Elect Jeff Wagener had  
15 sufficient funds in excess of \$1,000.00 in its account, lawful under federal law in that such funds in  
16 excess of that amount were not from corporations, labor organizations, foreign nationals, or  
17 government contractors." Wagener Committee Response, Letter of Jeff Wagener, June 2, 2000.

18 The Committee to Elect Rita Days ("Days Committee"), Frank S. Days, Treasurer, is a state  
19 political committee in Missouri. Representative Days is a member of the Missouri House of  
20 Representatives. In response to the complaint, the treasurer asserts that he reviewed the Days  
21 Committee's state campaign election reports for prior two-year period and "found no contributions

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<sup>4</sup> The Missouri Ethics Commission website actually lists three terminated committees with the name "Citizens for Good Government." The committee referred to in the text above has an address, which matches the corresponding contributor address on the Dooley for Congress 2000 April Quarterly Report.

of the nature being questioned.” Days Committee Response, Letter of Frank S. Days, May 31, 2000.

### C. Analysis

The complaint notes that the Dooley Committee accepted contributions from political entities that may have themselves had accepted contributions from national banks, corporations, and/or labor unions. The complainant alleges that the presence of the funds from national banks, corporations, and labor unions, which may not be used for contributions to federal candidates under the FECA, in the treasuries of these political entities tainted the contribution each of these political entities made to the Dooley Committee.

#### (1) Normandy Township Regular Democratic Club

According to the Missouri Secretary of State’s website, Normandy Township Democratic Club is a domestic nonprofit corporation. As a corporation, Normandy is subject to the Act’s prohibition against corporate contributions.<sup>5</sup> 2 U.S.C. § 441b. Thus, Normandy’s \$500 contribution to the Dooley Committee may have violated Section 441b.<sup>6</sup>

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<sup>5</sup> The Commission’s regulations provide an exemption for certain non-profit corporations from the Act’s provisions about independent expenditures. 11 C.F.R. § 114.10. However, even if Normandy demonstrates qualified non-profit corporation status under Section 114.10, that regulation does not apply to making federal political contributions. *See. Federal Election Com’n v. Beaumont*, 123 S.Ct. 220, 156 L.Ed. 179, decided June 16, 2003 (upholding provisions of Act which prohibit non-profit corporation from making contributions to federal candidates and political committees).

<sup>6</sup> Normandy’s response that nearly all of the funds it collects each year are collected from individuals is irrelevant. Moreover, Normandy has not reported as a federal committee or as a state committee; thus, it is impossible at this time to evaluate the veracity of Normandy’s response.

1  
2       Given the relatively modest amount at issue (i.e., \$500), the Commission may not wish to  
3       expend the resources necessary to pursue this apparent violation. Therefore, this Office  
4       recommends that the Commission find reason to believe that Normandy Township Regular  
5       Democratic Club and Everet Ballard, as Treasurer, violated 2 U.S.C. § 441b(a), send an  
6       admonishment letter, but take no further action and close the file as to these respondents.

7       **(2) Health Care Leadership Committee**

8       HCLC is registered as a federal political committee. According to its FEC Disclosure  
9       responses the contribution to which the complaint refers came from HCLC's federal account.  
10      HCLC's has asserted that "all contributions received from the inception of the organization have  
11      been from individuals." Therefore, this Office recommends that the Commission find no reason to  
12      believe that Health Care Leadership Committee violated 2 U.S.C. § 441b(a) or 11 C.F.R. § 102.5  
13      with regard to these facts.

14      **(3) Citizens for Good Government**

15      The CGG Committee is not a federal political committee, and thus must comply with 11  
16      C.F.R. § 102.5 when making contributions to federal candidates and committees. Given that this  
17      Committee has not apparently established a separate federal account in accordance with 11 C.F.R.  
18      § 102.5(b)(1)(i), it must demonstrate through a reasonable accounting method that it had received  
19      sufficient funds subject to the limitations and prohibitions of the Act to make the \$1,000  
20      contribution in question. 11 C.F.R. § 102.5(b)(1)(ii). However, the CGG Committee is apparently  
21      now a terminated state political committee. According to the Committee's Disclosure Report filed  
22      with the Missouri Ethics Commission covering the first calendar quarter of 2000, the Committee's  
23      only activity was the \$900 contribution to the Dooley Committee at issue here. The CGG

1 Committee's beginning balance for the quarter was \$6,000.34; at present, this Office has no  
2 information about the sources from which the CGG Committee raised this amount. However, given  
3 that this Committee is apparently defunct and that the amount in question is less than \$1,000, this  
4 Office recommends that the Commission take no action against Citizens for Good Government and  
5 Francis Brady, as Treasurer, and close the file with regard to these respondents.

6 (4) Committee to Elect Jeff Wagener

7 The Committee to Elect Jeff Wagener is not a federal political committee, and thus must  
8 comply with 11 C.F.R. § 102.5 when making contributions to federal candidates and committees.  
9 Given that the Committee has not established a separate federal account in accordance with 11  
10 C.F.R. § 102.5(b)(1)(i), the Committee must demonstrate through a reasonable accounting method  
11 that it had received sufficient funds subject to the limitations and prohibitions of the Act to make the  
12 \$1,000 contribution in question. 11 C.F.R. § 102.5(b)(1)(ii). The Committee argues that it "had  
13 sufficient funds in excess of \$1,000.00 in its account . . . not from corporations, labor organizations,  
14 foreign nationals, or government contractors." However, the Committee does not supply an  
15 explanation of the accounting method under which it makes this assertion.

16 According to the Committee to Elect Jeff Wagener's Committee Disclosure Report filed  
17 with the Missouri Ethics Commission covering the first calendar quarter of 2000 (that is, the quarter  
18 in which it made the contribution to the Dooley Committee in question here), it received \$5,050.00  
19 in contributions during the quarter. Approximately 54% of these contributions, \$2,300.00, came  
20 from individuals. None of these contributions from individuals exceeded \$500.00; i.e., none of the  
21 contributions exceeded the federal contribution limitations (see 2 U.S.C. § 441a). Thus, the  
22 Committee to Elect Jeff Wagener appeared to have received sufficient federally permissible funds  
23 during the first calendar quarter of 2000 to cover a \$1,000 contribution to the Dooley Committee.



1 Therefore, this Office recommends that the Commission find no reason to believe that the  
2 Committee to Elect Jeff Wagener and Mark Monia, as Treasurer, violated 2 U.S.C. § 441b or 11  
3 C.F.R. § 102.5.

4 **(5) Committee to Elect Rita Days**

5 The Committee to Elect Rita Days is not a federal political committee, and thus must comply  
6 with 11 C.F.R. § 102.5 when making contributions to federal candidates and committees. Given  
7 that the Committee has not established a separate federal account in accordance with 11 C.F.R.  
8 § 102.5(b)(1)(i), the Committee must demonstrate through a reasonable accounting method that it  
9 had received sufficient funds subject to the limitations and prohibitions of the Act to make the  
10 \$1,000 contribution in question.

11 The treasurer for the Committee to Elect Rita Days stated that he has reviewed all  
12 contributions received by the Committee in the two years preceding the \$500 contribution to the  
13 Dooley Committee in question, and found no contributions received from national banks,  
14 corporations or labor unions. Given that the conclusory allegations of the complaint give no reason  
15 to question this assertion, and given the amount in question (\$500),<sup>7</sup> this Office recommends that  
16 the Commission find no reason to believe that the Committee to Elect Rita Days and Frank S. Days,  
17 as Treasurer violated 2 U.S.C. § 441b or 11 C.F.R. § 102.5.

18 **(6) The Dooley Committee and Charlie Dooley**

19 The Dooley Committee accepted a contribution from Normandy, which is apparently a  
20 corporation. Thus, the Dooley Committee appears to have violated 2 U.S.C. § 441b(a). Given the

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<sup>7</sup> The response from the Committee to Elect Rita Days did not specifically address the question of whether it accepted contributions from individuals in amounts in excess of the federal contribution limits while the Missouri candidate contribution limits were enjoined. However, given that the first \$1,000.00 of any such contributions in excess of the federal contribution limits would have been permissible to use for federal contributions, and given that the amount of the contribution to Dooley for Congress in question is relatively small, it seems unlikely that the Days Committee would not have had sufficient federally permissible funds to cover the contribution to Dooley for Congress.

1 relatively modest amount at issue (i.e., \$500.00), the Commission may not wish to expend the  
2 resources necessary to pursue this violation. Therefore, this Office recommends that the  
3 Commission find reason to believe that Dooley for Congress and Everet Ballard, as Treasurer,  
4 violated 2 U.S.C. § 441b(a) with regard to the contribution from Normandy, send an admonishment  
5 letter, but take no further action and close the file as to these respondents.

6 This Office also recommends, for the reasons outlined above, that the Commission find no  
7 reason to believe that Dooley for Congress and Everet Ballard, as Treasurer, violated 2 U.S.C.  
8 § 441b(a) with regard to the contributions from the Health Care Leadership Committee, the  
9 Committee to Elect Jeff Wagener, and the Committee to Elect Rita Days. Finally, given that  
10 Citizens for Good Government is apparently defunct and that the amount in question is less than  
11 \$1,000, this Office recommends that the Commission take no action against Dooley for Congress  
12 and Everet Ballard, as Treasurer, with regard to the contribution from Citizens for Good  
13 Government.

14 Because there is nothing in the complaint to suggest that the candidate, Charlie A. Dooley,  
15 was personally involved in the receipt of any of the contributions, this Office recommends that the  
16 Commission find no reason to believe that Charlie A. Dooley violated the Act with respect to the  
17 contributions referred to in the complaint.

18 **III. RECOMMENDATIONS**

- 19 1. Find reason to believe that the Normandy Township Regular Democratic Club and Everet  
20 Ballard, as Treasurer, violated 2 U.S.C. § 441b(a), send an admonishment letter, but take no  
21 further action.  
22  
23 2 Find no reason to believe that the Health Care Leadership Committee and John J. Sharamitaro,  
24 as Treasurer, violated 2 U.S.C. § 441b(a).  
25  
26 3. Take no action against Citizens for Good Government and Francis Brady, as Treasurer.  
27

- 1 4. Find no reason to believe that the Committee to Elect Jeff Wagener and Mark Monia, as  
2 Treasurer, violated 2 U.S.C. § 441b(a) or 11 C.F.R. § 102.5.  
3  
4 5. Find no reason to believe that the Committee to Elect Rita Days and Frank S. Days, as  
5 Treasurer, violated 2 U.S.C. § 441b(a) or 11 C.F.R. § 102.5(b).  
6  
7 6. Find reason to believe that the Dooley for Congress Committee, and Everet Ballard as Treasurer,  
8 violated 2 U.S.C. § 441b(a) with regard to the contribution from the Normandy Township  
9 Regular Democratic Club, send an admonishment letter, but take no further action.  
10  
11 7. Find no reason to believe that Dooley for Congress and Everet Ballard, as Treasurer, violated 2  
12 U.S.C. § 441b(a) with regard to the contributions from the Health Care Leadership Committee,  
13 the Committee to Elect Jeff Wagener, and the Committee to Elect Rita Days, respectively.  
14  
15 8. Take no action against Dooley for Congress and Everet Ballard, as Treasurer, with regard to the  
16 contribution from Citizens for Good Government.  
17  
18 9. Find no reason to believe that Charlie A. Dooley violated the Federal Election Campaign Act of  
19 1971, as amended, with regard to the contributions referred to in the complaint.  
20  
21 10. Approve the appropriate letters.  
22  
23 11. Close the file.  
24

25 Lawrence H. Norton  
26 General Counsel  
27

28  
29 8/12/03  
30 Date

31 BY:

32 Rhonda J. Vosdingh  
33 Rhonda J. Vosdingh  
34 Associate General Counsel

35 Mark D. Shonkwiler  
36 Mark D. Shonkwiler  
37 Assistant General Counsel

38 Elizabeth F. Williams  
39 Elizabeth F. Williams  
40 Paralegal  
41

42 Staff Previously Assigned: John Vergelli  
43